



## **United States Mission to the OSCE**

### **Statement on Prevention of Torture**

As delivered by Mr. Frank Gaffney,  
U.S. State Department, Office of the Legal Advisor,  
to the OSCE Human Dimension Implementation Meeting  
Warsaw, September 22, 2005

Thank you, Mr. Moderator.

The United States is unequivocally opposed to the use and practice of torture, and fully supports OSCE's work in the fields of torture prevention. No circumstance whatsoever, including war, the threat of war, internal political instability, public emergency, or an order from a superior officer or public authority, may be invoked as a justification for or defense to committing torture. This is a longstanding commitment of the United States, repeatedly reaffirmed at the highest levels of the U.S. Government.

All components – and I emphasize this: all components of the U.S. Government must act in compliance with the law, including all U.S. constitutional, statutory, and treaty obligations relating to torture and cruel, inhuman or degrading treatment or punishment. The U.S. Government does not permit, tolerate, or condone torture, or other unlawful practices, by its personnel or employees under any circumstances. U.S. laws prohibiting such practices apply to employees both within the United States and throughout the world. We have moved aggressively to hold accountable those responsible for the abuse of detainees wherever they are held in U.S. custody pursuant to the global war on terrorism. When allegations of torture or other unlawful treatment arise, they are investigated and, if substantiated, prosecuted. Investigations of alleged abuse of detainees in custody are ongoing.

The United States has discussed our position on torture at several OSCE meetings this year, including at the January 27 Permanent Council meeting, at the OSCE Parliamentary Assembly meeting in July, and at the Supplementary Human Dimension Meeting on terrorism and human rights. On May 6, the United States submitted its latest periodic report to the UN Committee Against Torture. The full text of the report is available on the State Department's website.

We believe other States should also make their positions clear and respond openly to criticisms raised here and in other OSCE fora.

Mr. Moderator, in April, the OSCE Mission in Tbilisi hosted a meeting on Georgia's National Action Plan Against Torture, which was developed with assistance from the OSCE. We welcome Georgia's continued engagement on this issue and commend Georgia for amending the Criminal Procedure Code in April. The amended Code stipulates that statements given during pre-trial detention must be confirmed by the defendant in court to be accepted as evidence. This is a confirmed best practice for preventing torture.

We also commend Georgia for prosecuting more police officers for their torture-related crimes or other illegal conduct and for issuing updates on measures to combat abuse in the

justice system. Clearly, much can be accomplished when there is political will. Of course, more remains to be done, and we urge Georgia to implement some of the specific recommendations that have been produced at international consultations. These include:

- Maintain accurate and complete records on every person who has access to a detainee, including during interrogation.
- When there is credible evidence that a law enforcement officer has committed torture or abuse, the officer should immediately be suspended from active duty, while the case is investigated.
- Consider establishing an independent body to monitor investigations into torture allegations carried out by the procuracy.

Mr. Moderator, these recommendations are valid for all OSCE participating States, and ODIHR's experts are available to assist States who want to implement them. We urge participating States to take advantage of this resource.

In Turkey, a shortened pre-trial detention period has contributed to the reduction in allegations of torture. On the other hand, Turkey's 2004 decision to dissolve its Torture Prevention Group may also have contributed to decreasing allegations of torture. We urge Turkey to intensify the monitoring of police stations by independent medical experts and human rights boards, which could also be made more effective by including representatives of major human rights NGOs.

In Chechnya, there is ample evidence that detainees picked up by pro-Moscow forces or by Chechen fighters are tortured, and in some instances killed to cover up the crime. We welcome Russia's decision to permit visits to Chechnya by UN Representatives on children in armed conflict and on internally displaced persons, the UN Special Rapporteur on violence against women, and the UN High Commissioner on Human Rights. We urge the Russian Government to honor the 1994 Budapest Code of Conduct on Politico-Military Aspects of Security.

Mr. Moderator, we urge Governments to uphold their OSCE commitments and their obligations under the Convention Against Torture. At the Istanbul Summit, all OSCE participating States committed to eradicate torture and cruel, inhumane or degrading treatment or punishment. Our governments agreed to provide procedural and substantive safeguards and remedies to combat these practices. It is imperative that we take these commitments seriously by ensuring that our laws, regulations, practices and policies conform to obligations under international law.